

regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

#### List of Subjects in 40 CFR Parts 185 and 186

Environmental protection, Administrative practice and procedure, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 28, 1995.

#### Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR parts 185 and 186 be amended as follows:

#### PART 185—[AMENDED]

##### 1. In part 185:

a. The authority citation for part 185 continues to read as follows:

**Authority:** 21 U.S.C. 346a and 348.

b. By revising § 185.5450, to read as follows:

##### § 185.5450 Tralomethrin.

(a) A time-limited food additive regulation is established for the combined residues of the insecticide tralomethrin ((S)-*alpha*-cyano-3-phenoxybenzyl-(1R,3S)-2,2-dimethyl-3-[(RS)-1,2,2,2-tetrabromoethyl]-cyclopropanecarboxylate; CAS Reg. No. 66841-25-6) and its metabolites (S)-*alpha*-cyano-3-phenoxybenzyl (1R,3R)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate and (S)-*alpha*-cyano-3-phenoxybenzyl(1S,3R)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate calculated as the parent in or on the following food commodities when present as a result of application of the insecticide to the growing crops:

Commodity	Parts per million	Expiration date
Cottonseed oil ...	0.20	Nov. 15, 1997.

(b) A time-limited food additive regulation is established permitting residues of the pesticide tralomethrin ((S)-*alpha*-cyano-3-phenoxybenzyl-(1R,3S)-2,2-dimethyl-3-[(RS)-1,2,2,2-

tetrabromoethyl]-cyclopropanecarboxylate; CAS Reg. No. 66841-25-6) and its metabolites (S)-*alpha*-cyano-3-phenoxybenzyl (1R,3R)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate and (S)-*alpha*-cyano-3-phenoxybenzyl(1S,3R)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate calculated as the parent in or on the following food commodity resulting from application of the insecticide to tomatoes in accordance with an experimental program (34147-EUP-2). The conditions set forth in this section shall be met.

Commodity	Parts per million	Expiration date
Tomato puree .....	1.00	June 1, 1997.

(1) Residues in the food not in excess of the established tolerance resulting from the use described in paragraph (b) of this section remaining after expiration of the experimental program will not be considered to be actionable if the insecticide is applied during the term of and in accordance with the provisions of the experimental use program and feed additive regulation.

(2) The company concerned shall immediately notify the Environmental Protection Agency of any findings from the experimental use that have a bearing on safety. The firm shall also keep records of production, distribution, and performance, and on request make the records available to any authorized officer or employee of the Environmental Protection Agency or the Food and Drug Administration.

#### PART 186—[AMENDED]

1. The authority citation for part 186 continues to read as follows:

**Authority:** 21 U.S.C. 348.

2. By adding new § 186.5450, to read as follows:

##### § 186.5450 Tralomethrin.

(a) A time-limited feed additive regulation is established permitting residues of tralomethrin ((S)-*alpha*-cyano-3-phenoxybenzyl-(1R,3S)-2,2-dimethyl-3-[(RS)-1,2,2,2-tetrabromoethyl]-cyclopropanecarboxylate; CAS Reg. No. 66841-25-6) and its metabolites (S)-*alpha*-cyano-3-phenoxybenzyl (1R,3R)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate and (S)-*alpha*-cyano-3-

phenoxybenzyl(1S,3R)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate calculated as the parent in or on the following feed resulting from application of the insecticide to tomatoes in accordance with an experimental program (34147-EUP-2). The conditions set forth in this section shall be met.

Feed	Parts per million	Expiration date
Tomato pomace, wet.	1.50	June 1, 1997.
Tomato pomace, dry.	4.00	June 1, 1997.

(b) Residues in the feed not in excess of the established tolerance resulting from the use described in paragraph (a) of this section remaining after expiration of the experimental program will not be considered to be actionable if the insecticide is applied during the term of and in accordance with the provisions of the experimental use program and feed additive regulation.

(c) The company concerned shall immediately notify the Environmental Protection Agency of any findings from the experimental use that have a bearing on safety. The firm shall also keep records of production, distribution, and performance, and on request make the records available to any authorized officer or employee of the Environmental Protection Agency or the Food and Drug Administration.

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#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 25

[IB Docket No. 95-41; FCC 95-146]

##### Fixed Satellite Systems

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Commission is hereby proposing rules that would eliminate the distinction between our Transborder Policy and Separate International Satellite Systems (Separate Systems) Policy and to treat all U.S.-licensed geostationary fixed-satellites under a single regulatory scheme. Our action is in response to applications from

domestic and international satellite system operators for authority to provide both domestic and international services. In addition, the Executive Branch has recommended that all U.S.-licensed fixed-satellites be subject to the same regulatory scheme. Permitting U.S. operators to provide the widest range of service offerings technically feasible will allow them to use their satellites more efficiently and to provide innovative and customer-tailored services.

**DATES:** Comments must be submitted on or before June 8, 1995 and reply comments must be submitted on or before June 23, 1995.

**ADDRESSES:** Comments and reply comments should be submitted to Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** John M. Coles, Attorney, Satellite Policy Branch, International Bureau (202) 739-0731.

#### SUPPLEMENTARY INFORMATION:

#### Notice of Proposed Rulemaking

Adopted: April 5, 1995.  
Released: April 25, 1995.

By the Commission:

1. The Commission is hereby proposing rules that would eliminate the distinction between our Transborder Policy and Separate International Satellite Systems (Separate Systems) Policy and to treat all U.S.-licensed geostationary fixed-satellites under a single regulatory scheme.

#### II. Background

2. The Transborder and Separate Systems Policies both involve the use of non-Intelsat satellites for the provision of international services. Both policies are based on the Communications Satellite Act of 1962 ("Satellite Act") which provides for U.S. participation in the global commercial communications satellite organization that became Intelsat, but also specifically provides that additional satellite systems may be authorized if "required to meet unique governmental needs or if otherwise required in the national interest."<sup>1</sup> The Transborder and Separate Systems Policies evolved from these general

principles at different times and in response to different circumstances.

#### A. Transborder Policy

3. The Transborder Policy was established in 1981 and permits domestic fixed-satellite operators ("domsats") to provide international public telecommunications services within the coverage areas ("footprints") of their satellites where: (1) Intelsat cannot provide the service; or (2) it would be clearly uneconomical or impractical to use Intelsat facilities.<sup>2</sup> Most of the applications approved for transborder services have involved instances where use of the Intelsat system would be clearly uneconomical or impractical, i.e. use of Intelsat facilities would require multiple satellite hops, terrestrial facilities, and co-located domestic and international earth stations, which would significantly increase the cost of providing the service.<sup>3</sup> Typically, services authorized under the uneconomical or impractical standard have been characterized as "incidental" to domestic services already being provided.

4. U.S. domsats have provided more extensive services (i.e., point-to-point and two-way services) between the U.S. and Mexico and between the U.S. and Canada because Intelsat has not traditionally provided service between the U.S. and these points. Thus, a wider range of services was permitted between the U.S. and contiguous locations (i.e., Canada and Mexico) than between the U.S. and non-contiguous locations.

5. Another significant feature of the Transborder Policy is that it does not prohibit voice services through the public switched network ("PSN"), as did our Separate Systems Policy initially. Until recent modifications in the Separate Systems Policy permitting interconnection with the PSN, the ability of domsats to provide public switched services under the Transborder Policy was the main distinguishing feature between the two policies.

#### B. Separate Systems Policy

6. The Separate Systems Policy was established in response to a 1984 Presidential Determination that satellite systems separate from Intelsat, providing service between the U.S. and international points, "are required in

the national interest."<sup>4</sup> In response to the Presidential Determination, the Secretaries of State and Commerce jointly advised the Commission to authorize separate systems provided that (1) each system be restricted to providing services through the sale or long-term lease of capacity for communications not interconnected with public switched message networks (except for emergency restoration service);<sup>5</sup> and (2) each system gain approval from the foreign authority with which communications links are being established and enter into consultation procedures in accordance with Article XIV(d) of the Intelsat Agreement to ensure technical compatibility and to avoid significant economic harm to Intelsat.<sup>6</sup>

7. In 1985, we authorized several applicants to build separate satellite systems to provide international public telecommunications services under these condition.<sup>7</sup> Since many of the orbital positions requested by separate systems applicants were deemed to be critical, limited resources for the provision of particular international services, we decided we would not permit separate systems operators to divert this capacity for domestic communications. However, we decided that separate system licensees could provide domestic service within the U.S. on an "ancillary" basis, which permits licensees to use their separate system facilities for domestic communications that are reasonably related to their use of the facilities for international communications. This was intended to accommodate those international customers who have limited domestic communications needs related to their international uses.

#### C. Recent Developments

8. Since we first began to license separate systems, Intelsat has continued to evaluate the risk of economic harm posed by these systems and has concluded that the provision of limited switched services over systems consulted under Article XIV(d) would

<sup>4</sup> Presidential Determination No. 85-2 (Nov. 28, 1984), 49 F.R. 46,987. The Separate Systems Policy is written into law as part of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, Pub. L. 99-93, section 146(g), 99 Stat. at 426.

<sup>5</sup> At the time, the restriction against interconnection with the PSN was deemed necessary to protect the core revenue base of Intelsat which consisted of switched voice and other services.

<sup>6</sup> Letter from George P. Shultz, Secretary of State, and Malcolm Baldrige, Secretary of Commerce, to F.C.C. Chairman Mark S. Fowler (Nov. 28, 1984).

<sup>7</sup> Establishment of Satellite Systems Providing International Communications, 50 FR 42266 (1985) ("Separate Systems Decision"), *recon.*, 61 RR2d 649 (1986), *further recon.*, 1 F.C.C. Rcd 439 (1986).

<sup>1</sup> See 47 U.S.C. 701(d). Additionally, Congress has declared it to be U.S. policy "to make available to consumers a variety of communications satellite services utilizing the space segment facilities of Intelsat and any additional such facilities which are found to be in the national interest" and which are technically compatible with and avoid significant economic harm to the Intelsat system. Pub. L. 99-93, 99 Stat. 425 (1985) (quoted in Historical and Statutory Notes to 47 U.S.C.A. 701).

<sup>2</sup> Letter from James L. Buckley, Under Secretary of State for Security Assistance, Science and Technology, to F.C.C. Chairman Mark Fowler (July 23, 1981) ("Buckley Letter") (printed in Appendix to Transborder Satellite Video Services, 88 F.C.C.2d 258, 287 (1981)).

<sup>3</sup> *Id.* at 280.

not cause it significant economic harm.<sup>8</sup> The Executive Branch advised us to modify our Separate Systems Policy accordingly. The cumulative effect of these modifications is a phased relaxation of the restrictions against interconnection with the PSN—from no circuits in 1985 to 8,000 circuits today—with a goal of complete elimination of all interconnection restrictions by January 1997.<sup>9</sup>

9. The Executive Branch has also notified the Commission that the conditions identified in the Buckley Letter should be replaced by the Separate System Policy.<sup>10</sup> In addition, we have received applications from domestic and international satellite system licensees for authority to provide a full range of both domestic and international services.

### Discussion

10. We propose to eliminate the transborder policy in its entirety and to subject all U.S.-licensed geostationary satellite to a modified version of the separate systems policy. Under the new policy, all such satellites would be able to offer domestic services and any international services they can successfully coordinate internationally. These changes would allow major U.S. corporations to meet their increasingly global communications needs without

the delays and uncertainties associated with the current policy of waiving parts of the transborder or separate systems policies on a case-by-case basis.

11. We tentatively conclude that permitting U.S. operators to provide the widest range of service offerings technically feasible and consulted by Intelsat will permit them to use their satellites more efficiently and to provide innovative and customer-tailored services. Domsat licensees will be able to provide these international services without regard to whether these services are incidental to an existing domestic network or whether Intelsat could provide the service. Consequently, subject to the approval of the affected foreign country and successful consultation with Intelsat and ITU<sup>11</sup> coordination with other administrations with satellite systems that may be affected, domsats would be able to provide services between the U.S. and non-contiguous points on the same basis as separate systems.<sup>12</sup> In order to ensure that domsats and separate systems are subject to the same regulatory scheme, we also propose removing the limitation that separate systems may only provide domestic service on an “ancillary” basis.

12. We do not expect the proposed policy changes to result in harm to Intelsat. Intelsat has consulted more and more international services over U.S. separate satellites, suggesting that these services have not harmed it economically or technically.

13. We also request comment on whether the proposed policy changes should apply to other U.S. satellite systems, such as mobile-satellite service and direct broadcast service systems; whether Comsat, a U.S. licensee, should be permitted to provide domestic service using intelsat facilities; and whether and under what conditions non-U.S. satellites should be permitted to serve the U.S. Domestic market.

14. The proposed policy changes will require certain changes to Part 25 of our rules. Initially, we propose to eliminate all references to “transborder”, “domestic”, “separate” and “international” satellite systems. These references are found in §§ 25.110(b), 25.113 (b) and (d), 25.114(c), 25.115(c),

25.117(a), 25.130(d), 25.131(b), (g) and (j), 25.140 (a) and (b), 25.202(c), 25.210 (e), (f) and (j), 25.211(b) and 25.276(c). We also propose to reconcile differences in the financial qualification requirements for domsats and separate systems, allow all U.S.-licensed satellite system operators to elect whether they will operate on a common carrier or non-common carrier basis, and make modifications to our earth station licensing procedures. Finally, because the recent changes to Part 25 require separate system operators to meet the same technical standards as domsat operators, we proposed to eliminate § 25.210(f) which permits exceptions to the technical requirements in accordance with the *Separate Systems Decision*.

15. We also invite all interested parties to comment on any other issues raised by the proposed changes, including considerations as to how the proposed changes will affect orbital assignments, 2° orbital spacing between U.S. satellites in the geostationary orbit, the need to reopen coordination with satellite systems from other countries, and whether any special requirements should be placed on satellite operators providing both domestic and international service.

### Ex Parte Rules—Non-Restricted Proceeding

This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. See generally 47 CFR 1.1202, 1.1203, and 1.1206(a).

### Initial Regulatory Flexibility Act

#### A. Reason for Action

This rulemaking proceeding is initiated to obtain comment regarding proposed elimination of the Commission's Transborder Policy and removal of certain restrictions on separate international satellite systems with respect to domestic services in order to subject all U.S.-licensed fixed-satellites to the same regulatory treatment.

#### B. Objectives

The Commission seeks to subject all U.S.-licensed fixed-satellites to the same regulatory policy.

#### C. Legal Basis

The proposed action is authorized under Sections 4 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154, 303(r), and

<sup>8</sup> Most recently, the Nineteenth Assembly of Parties of Intelsat determined that the interconnection of up to 8,000 64-kbps equivalent circuits via each separate system satellite would not cause significant economic harm to the Intelsat system. The Executive Branch has not yet notified the Commission that the Separate Systems Policy should be modified accordingly.

<sup>9</sup> See Letter from Thomas J. Murrin, Deputy Secretary of Commerce, and Lawrence S. Eagleburger, Deputy Secretary of State, to F.C.C. Chairman Alfred C. Sikes (December 14, 1990)(100 64-kbps circuits consistent with U.S. obligations). Letter from James Baker, Secretary of State, and Robert Mosbacher, Secretary of Commerce, to F.C.C. Chairman Sikes (November 27, 1991) (interconnection of private lines to the PSN consistent with U.S. obligations and U.S. goal of complete elimination of PSN interconnection restrictions by January 1997). Letter from Bradley P. Holmes, United States Coordinator for International Communications and Information Policy, Department of State, and Gregory L. Chapados, Assistant Secretary, Department of Commerce, to F.C.C. Chairman Sikes (January 8, 1993)(1,250 64-kbps circuits consistent with U.S. obligations). See also Permissible Services of U.S. Licensed International Communications Satellite Systems Separate from the International Telecommunications Satellite Organization (Intelsat), 7 F.C.C. Rcd 2313 (1992), *further modification*, 9 F.C.C. Rcd 347 (1994); alpha Lyracom d/b/a Pan American Satellite, et al., 9 F.C.C. Rcd 1282 (1994) (“PAS Modification Order”).

<sup>10</sup> Letter from Bradley P. Holmes, United States Coordinator for International Communications and Information Policy, Department of State, and Gregory L. Chapados, Assistant Secretary for Communications and Information, Department of Commerce, to F.C.C. Chairman Alfred C. Sikes (January 8, 1993).

<sup>11</sup> The ITU (International Telecommunications Union) is a specialized agency of the United States Nations whose goal is to promote international cooperation in the efficient use of telecommunications, including the use of the radio frequency spectrum.

<sup>12</sup> Any domsat operators that need to change the technical parameters of their proposed or authorized satellites in order to provide co-primary international service must file a request to amend the application or modify the license under Part 25 procedures. 47 CFR Part 25.

Section 201 of the Communications Satellite Act of 1962, 47 U.S.C. 721(c).

*D. Reporting, Recordkeeping and Other Compliance Requirements*

The proposed policy changes will not create additional burdens on the public.

*E. Federal Rules That Overlap, Duplicate or Conflict With These Rules*  
None.

*F. Description, Potential Impact, and Number of Small Entities Involved*

The proposed policy changes discussed in this Notice of Proposed Rulemaking will enhance service options and price competition for any small businesses involved in the provision of international telecommunications services via U.S.-licensed satellites.

*G. Any Significant Alternatives Minimizing the Impact on Small Entities Consistent with the Stated Objectives*

The Notice solicits comment on proposed policy changes necessary to achieve Commission objectives. Any significant alternatives may be set forth in comments to this Notice.

**Comment Dates**

Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before June 8, 1995 and reply comments on or before June 23, 1995. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to: Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the F.C.C. Reference Center (Room 239) of the Federal Communications Commission, 1919 M St., NW., Washington, DC 20554.

**Ordering Clauses**

16. Accordingly, *it is ordered* That NOTICE IS HEREBY GIVEN of the proposed regulatory action described above and that COMMENT IS SOUGHT on the proposals in this Notice.

17. This action is taken pursuant to Sections 4 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154, 303(r), and Section 201(c) of the Communications Satellite Act of 1962, 47 U.S.C. 721(c).

18. For further information on this Notice contact John M. Coles, Attorney, (202) 739-0731.

**List of Subjects in 47 CFR Part 25**

Communications common carriers, Radio, Satellites.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

[FR Doc. 95-11286 Filed 5-9-95; 8:45 am]

BILLING CODE 6712-01-M

**DEPARTMENT OF TRANSPORTATION**

**Federal Highway Administration**

**49 CFR Part 383**

[FHWA Docket No. MC-95-16]

**Commercial Driver's License; Waiver for Pyrotechnics Industry; Request for Comments**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of petition; request for comment.

**SUMMARY:** The FHWA is requesting public comment on a petition submitted by the pyrotechnics industry on March 6, 1995, for relief from the requirements of the commercial driver's license regulations (CDL) (49 CFR Part 383). The FHWA is proposing to authorize waivers for certain drivers transporting fireworks to displays during the period of Independence Day celebrations from the CDL testing and licensing standards. The drivers to be covered by these waivers are part-time drivers who have an otherwise valid driver's license, as well as licenses or permits issued by applicable State or local agencies certifying that they are approved pyrotechnic operators. A waiver issued by a State under this proposal would only authorize the transportation of less than 500 pounds of fireworks classified as DOT Class 1.3G explosives, from June 30 through July 6 of each year, provided that the vehicles operated have gross vehicle weight ratings (GVWR) of less than 10,001 pounds and are operated within 300 miles of the sites of origin. The FHWA requests public comment on whether, if granted, the proposed grant of waiver authority would be contrary to the public interest or diminish the safe operation of commercial motor vehicles.

**DATES:** Comments must be received on or before June 9, 1995.

**ADDRESSES:** All signed, written comments should refer to the docket number that appears at the top of this document and should be submitted to the Federal Highway Administration, Room 4232, Office of Chief Counsel, HCC-10, 400 Seventh Street SW., Washington, DC 20590-0001.

All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except Federal holidays. Commenters who want to be notified that the FHWA received their comments should include a self-addressed, stamped postcard.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Redmond, Office of Motor Carrier Standards, (202) 366-4001, or Mr. Raymond W. Cuprill, Office of the Chief Counsel, HCC-20, (202) 366-0834, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Commercial Driver's License (CDL) regulations, issued pursuant to the Commercial Motor Vehicle Safety Act of 1986 (Title XII, Pub. L. 99-570, 100 Stat. 3207, 3207-170) (49 U.S.C. 31502), are found at 49 CFR Part 383 (1994). Section 383.23 of the regulations sets forth the general rule that no person shall operate a commercial motor vehicle (CMV) unless such person: (1) Has taken and passed a knowledge test and, if applicable, a driving test, which meets Federal standards, and (2) possesses a CDL, which is evidence of having passed the required tests. These Federal standards ensure that drivers of a CMV: (1) Have a single driver's license and a single driving record, (2) are tested for the knowledge and skills needed to drive a vehicle representative of the vehicle that they will be licensed to drive, and (3) are disqualified from driving a CMV when convicted of certain criminal or traffic violations. Drivers operating commercial motor vehicles that haul hazardous materials are also required to take and pass specialized tests for specific endorsements to their licenses.

The term "commercial motor vehicle" is defined to include, a motor vehicle:

(1) With a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a GVWR of more than 10,000 pounds; or

(2) With a GVWR of 26,001 or more pounds; or

(3) Designed to transport 16 or more passengers, including the driver; or

(4) Used in the transportation of quantities of hazardous materials which require the vehicle to be placarded under the Hazardous Materials Transportation Regulations (49 CFR part 172, subpart F). 49 CFR 383.5 (1994).